

Held in Room 519 S, at the Statehouse at 12:00 ~~a.m.~~/p. m., on February 28, 19 79

All members were present except: Senator Gaines

The next meeting of the Committee will be held at 4:45 ~~a.m.~~/p. m., on February 28, 19 79

~~These minutes of the meeting held on 19 were considered, corrected and approved.~~

C. Wayne Henderson
Chairman

The conferees appearing before the Committee were:

Staff present:

- Art Griggs - Revisor of Statutes
- Jerry Stephens - Legislative Research Department
- Wayne Morris - Legislative Research Department

Proposed Substitute for Senate Bill No. 76 - Enacting a tort claims act applicable to the state and local units of government.

Senator Steineger reported back to the committee results of the subcommittee, pointing out that he had not had time to confer with the other members of the subcommittee. Committee discussion was had. Senator Steineger moved that the subcommittee report be adopted and amended relating to liability for emergency preparedness; Senator Mulich seconded the motion, and following committee discussion, the motion carried on a vote of six to three. Senator Steineger explained the rest of the report of the subcommittee. Senator Simpson moved to strike the section in the subcommittee report dealing with hospitals; Senator Parrish seconded the motion. The motion carried on a vote of six to four.

The chairman reminded the committee of the additional working session to be held on adjournment today.

The meeting adjourned.

These minutes were read and approved by the committee on 4-25-79.

Substitute for SENATE BILL NO. 76

By Committee on Judiciary

AN ACT relating to claims against certain governmental entities and employees thereof; concerning the liability of the state and local units of government for certain acts or omissions of their officers and employees; providing a procedure for the recovery of certain damages and limitations thereon; providing for the financing and payment of certain costs by governmental entities; providing for the issuance of bonds and warrants and the levying of taxes under certain circumstances; amending K.S.A. 12-105a, 12-105b, 12-2904, 19-261, 19-3621, 46-903, 72-8404, 74-8702, 75-4109, 80-1423, 80-1502, 80-1923 and 82a-934 and repealing the existing sections; also repealing K.S.A. 12-105, 12-203, 12-204, 12-2601 to 12-2614, inclusive, 19-106, 46-901, 72-8405 to 72-8413, inclusive, 74-4708 to 74-4716, inclusive, 75-4356, 75-4357, 75-4347a, 75-4359 and 75-4361 and K.S.A. 1978 Supp. 46-902, 68-2108 and 75-4358.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) Sections 1 to 20, inclusive, of this act shall be known and may be cited as the Kansas tort claims act.

(b) The Kansas tort claims act shall be applicable to claims arising from acts or omissions occurring on and after the effective date of this act.

New Sec. 2. As used in sections 1 to 20, inclusive, unless the context clearly requires otherwise, the following words and phrases shall have the meanings respectively ascribed to them herein:

(a) "State" means the state of Kansas or any office, department, agency, authority, bureau, commission, board, institution, hospital, college, university or other instrumentality thereof.

(b) "Municipality" means any county, township, city, school district or other political or taxing subdivision of the state.

(c) "Governmental entity" means and includes state and municipality as hereinbefore defined.

(d) "Employee" means any officer, employee or servant or any member of a board, commission or council of a governmental entity, including elected or appointed officials and persons acting on behalf or in service of a governmental entity in any official capacity, whether with or without compensation, but such term shall not include an independent contractor under contract with a governmental entity. The term "employee" shall include former employees for acts and omissions within the scope of their employment during their former employment with the governmental entity.

New Sec. 3. (a) Governmental entities shall be immune from liability for negligence or any other tort or on an implied warranty, except as provided in this act or as is otherwise specifically provided by statute.

(b) Governmental entities shall not be precluded from asserting any defense available to any other party.

New Sec. 4. Governmental entities shall be liable for the intentional torts of their employees while acting within the scope of their employment, subject to the right of the governmental entity to recover payments made therefor from the employee.

New Sec. 5. Governmental entities shall be liable for damages caused by the gross and wanton negligence of their employees, while acting within the scope of their employment, except that governmental entities shall not be liable for damages resulting from:

(a) Legislative functions, including, but not limited to, the adoption or failure to adopt any statute, regulation, ordinance or resolution;

(b) Judicial function;

(c) Enforcement of or failure to enforce a law, whether

valid or invalid, including, but not limited to, any statute, regulation, ordinance or resolution;

(d) Any claim based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a governmental entity or employee, whether or not the discretion be abused;

(e) The assessment or collection of taxes or special assessments;

(f) Any claim by an employee of a governmental entity arising from the tortious conduct of another employee of the same governmental entity, if such claim is compensable pursuant to the Kansas workmen's compensation act; or

(g) Any claim which is limited or barred by any other law or which is for injuries or property damage against an officer, employee or agent where the individual is immune from suit or damages.

(h) Any claim based upon emergency preparedness activities, except that governmental entities shall be liable for claims to the extent provided in article 9 of chapter 48 of the Kansas Statutes Annotated.

New Sec. 6. Governmental entities shall be liable for damages caused by acts or omissions of their employees while acting within the scope of their employment when engaged in the performance of proprietary functions, except for damages caused by the negligence, other than gross and wanton negligence, of their employees acting within the scope of their employment in the operation of any hospital, mental institution, clinic, adult care home, health center, or similar and related facilities.

New Sec. 7. Cities shall be liable for the negligent failure to correct defects in streets. The state shall be liable for defects as provided in K.S.A. 1978 Supp. 68-419 and counties and townships shall be liable for defects as provided in K.S.A. 68-301.

New Sec. 8. Governmental entities are liable for damages caused by the negligence of their employees while acting within

the scope of their employment in the operation of any motor vehicle, aircraft, watercraft, snowmobiles or other mobile vehicles.

New Sec. 9. Governmental entities having a police force or law enforcement powers are liable for damages caused by the action of a mob within the jurisdiction of such body if such police force or other law enforcement officers of the public body have not exercised reasonable care or diligence in the prevention or suppression of a mob.

Governmental entities shall have all of the defenses in such action that are available to parties in tort actions.

As used in this section, the word "mob" shall mean an assembly of ten (10) or more persons intent on unlawful violence either to persons or property.

New Sec. 10. Governmental entities are liable for damages for creating or maintaining a nuisance on property under their control.

New Sec. 11. (a) The liability of a governmental entity for claims within the scope of this act shall not exceed three hundred thousand dollars (\$300,000) for any number of claims arising out of a single occurrence or accident.

(b) When the amount awarded to or settled upon multiple claimants exceeds the limitations of this section, any party may apply to the district court which has jurisdiction of the cause to apportion to each claimant his or her proper share of the total amount limited herein. The share apportioned to each claimant shall be in the proportion that the ratio of the award or settlement made to him or her bears to the aggregate awards and settlements for all claims arising out of the occurrence.

(c) A governmental entity shall not be liable for punitive damages or for interest prior to judgment. An employee acting within the scope of his or her employment shall not be liable for punitive damages or interest prior to judgment, except for any act or omission of an employee because of actual fraud or actual malice.

New Sec. 12. (a) Subject to the terms of an insurance contract, if any, a claim against the state or employee thereof acting within the scope of his or her office or employment may be compromised or settled for and on behalf of the state and any such employee by the attorney general, with the concurrence of the head of the affected department, agency, board, commission institute, hospital, college, university or other instrumentality thereof.

(b) Subject to the terms of the insurance contract, if any, claims against a municipality or employee thereof acting within the scope of his or her office or employment may be compromised or settled by the governing body of the municipality, or in such manner as such governing body may designate.

(c) The acceptance by a claimant of any such compromise or settlement hereunder shall be final and conclusive on the claimant, and shall constitute a complete release of any claim against the governmental entity involved and against the employee whose act or omission gave rise to the claim, by reason of the same subject matter.

New Sec. 13. (a) The judgment in an action subject to the provisions of this act against a governmental entity shall constitute a complete bar to any action by the claimant, by reason of the same subject matter, against the employee whose act or omission gave rise to the claim.

(b) Any judgment against an employee whose act or omission gave rise to the claim shall constitute a complete bar to any action for injury by the claimant, by reason of the same subject matter, against a governmental entity.

New Sec. 14. (a) Upon request of an employee in accordance with subsection (e), a governmental entity shall provide for the defense of any civil action or proceeding against such employee, in his or her official or individual capacity or both, on account of an act or omission in the scope of his or her employment as an employee of the governmental entity, except as provided in subsection (c).

(b) A governmental entity may provide for a defense by its own attorney or by employing other counsel for this purpose or by purchasing insurance which requires that the insurer provide the defense. A governmental entity has no right to recover such expenses from the employee defended, except as provided in section 14.

(c) Except as provided in K.S.A. 75-4360, a governmental entity may refuse to provide for the defense of an action against an employee if the governmental entity determines that:

(1) The act or omission was not within the scope of such employee's employment;

(2) such employee acted or failed to act because of actual fraud or actual malice;

(3) the defense of the action or proceeding by the governmental entity would create a conflict of interest between the governmental entity and the employee; or

(4) the request was not made in accordance with subsection (e).

(d) If after a timely request in accordance with subsection (e), a governmental entity fails or refuses to provide an employee with a defense and the employee retains his or her own counsel to defend the action or proceeding, such employee is entitled to recover from the governmental entity such reasonable attorney's fees, costs and expenses as are necessarily incurred in defending the action or proceeding if the action or proceeding arose out of an act or omission in the scope of employment as an employee of the governmental entity, but such employee is not entitled to such reimbursement if the trier of fact finds that such employee acted or failed to act because of actual fraud or actual malice.

Nothing in this section shall be construed to deprive an employee of the right to petition a court of competent jurisdiction to compel the governmental entity or the governing body or an employee thereof to perform the duties imposed by this section.

(e) An employee's request for a governmental entity to provide for the defense of the employee shall be made in writing within fifteen (15) days after service of process upon the employee in the action. In actions involving employees of the state, such request shall be filed in the office of the attorney general. In actions involving employees of a municipality, such request shall be filed with the governing body thereof or as otherwise provided by such governing body. A governmental entity, in its discretion, may provide requested defense for any of its employees who failed to make a request within the time prescribed by this subsection.

New Sec. 15. With regard to damages for which a governmental entity is liable pursuant to this act, a governmental entity shall indemnify its employees against damages, for injury or damage proximately caused by an act or omission of an employee while acting within the scope of his or her employment. A governmental entity shall not be liable under the provisions of this act for any punitive or exemplary damages against an employee, nor for payment of any costs, judgments or settlements which are paid through an applicable contract or policy of insurance. The governmental entity shall have the right to recover any payments made by it for any judgment, or portion thereof, and costs or fees incurred by or on behalf of an employee's defense if the employee fails to cooperate in good faith in the defense of the claim or action or if the trier of fact finds that the act or omission of the employee was because of such employee's actual fraud or actual malice.

New Sec. 16. (a) Payments by municipalities for the cost of providing for its defense and the defense of employees pursuant to this act and for the payment of claims and other direct and indirect costs resulting from the implementation of this act may be paid from the general or other existing fund of such municipality or from a special liability expense fund established for such purpose pursuant to subsection (b).

(b) Whenever the governing body of any municipality shall

determine that it is advisable to establish a special fund for the payment of such costs and to establish a reserve therefor, in lieu of paying the same out of the general or other existing fund of the municipality, such governing body may create and establish a special liability expense fund for the payment of such costs and may place therein any moneys received by the municipality from any source whatsoever which may be lawfully utilized for such purpose including the proceeds of tax levies hereinafter authorized and provided. Such fund shall not be subject to the provisions of K.S.A. 79-2925 to 79-2937, inclusive, and any acts amendatory thereof or supplemental thereto, except that in making the budget of such municipality, the amounts credited to and the amount on hand in such special fund, and the amount expended therefrom, shall be included in the annual budget for the information of the residents of such municipality.

(c) Whenever the governing body of any municipality which is authorized by law to levy taxes upon property has established a special liability expense fund under the provisions of this section and shall determine that moneys from other sources will be insufficient to pay such costs, the governing body is hereby authorized to levy an annual tax upon all taxable tangible property within the municipality in an amount determined by the governing body to be necessary for such purpose. All such tax levies shall be exempt from the limitations imposed under the provisions of K.S.A. 79-5001 to 79-5016, inclusive, and amendments thereto, and shall not be subject to or limited by any other tax levy limitation prescribed by law.

New Sec. 17. (a) A governmental entity may obtain insurance to provide for (1) its defense and the defense of its employees, (2) for its liability for claims pursuant to this act, and (3) for medical payment insurance when purchased in conjunction with insurance authorized by (1) or (2) above.

(b) Governmental entities may obtain insurance for the purpose of insuring its employees against any liability for damages resulting from the tortious conduct of employees while

acting within the scope of their employment and to the extent of the insurance so obtained the governmental entity and the insurer thereby waive any defense based on the provisions of subsection (a) of section 3.

(c) Any insurance authorized by this section must be purchased from an insurance company or association authorized to transact insurance business in this state. In the case of municipalities any such insurance may be obtained by competitive bids or by negotiation. In the case of the state, any such insurance shall be purchased in the manner and subject to the limitations prescribed by K.S.A. 75-4114, and amendments thereto. Except as provided in subsection (b), insurers of governmental entities may avail themselves of any defense that would be available to a governmental entity defending itself in an action within the scope of this act, except that the limitation on liability provided by subsection (a) of section 11 shall not be applicable where the contract of insurance provides for coverage in excess of such limitation in which case the limitation on liability shall be fixed at the amount for which insurance coverage has been purchased.

(d) Pursuant to the interlocal cooperation act, municipalities may enter into interlocal agreements providing for:

(1) The purchase of insurance to provide for the defense of employees and for liability for claims pursuant to this act; or

(2) pooling arrangements or other agreements to share and pay expenditures for judgments, settlements, defense costs and other direct or indirect expenses incurred as a result of implementation of this act including, but not limited to, the establishment of special funds to pay such expenses. With regard to establishing and maintaining such pooling arrangements or other agreements to share in expenditures incurred pursuant to this act, governmental entities and employees or agents thereof shall not be required to be licensed pursuant to the insurance laws of this state.

(e) Any municipality which for the year 1979 has failed to budget sufficient money to pay premiums for the purchase of liability insurance under the provisions of this act, or to pay the cost of risk management and insurance consultant services or other direct and indirect costs of implementing this act during the year 1979, is hereby authorized to expend any uncommitted moneys which may be available to it which may be expended for such purpose, notwithstanding the provisions of K.S.A. 79-2935. If no such moneys are available to a municipality authorized by law to issue no-fund warrants, such a municipality may issue no-fund warrants therefor in accordance with the procedures set forth in K.S.A. 79-2938 but the approval of the state board of tax appeals as to the issuance of such no-fund warrants shall not be required.

New Sec. 18. (a) Upon motion of a municipality against whom judgment has been rendered for a claim within the scope of this act, the court in accordance with subsection (b) may include in such judgment a requirement that the judgment be paid in whole or in part by periodic payments. Periodic payments may be ordered paid over any period of time not exceeding ten years. Any periodic payment upon becoming due and payable under the terms of the judgment shall constitute a separate judgment. Any judgment ordering any such payments shall specify the total amount awarded, the amount of each payment, the interval between payments and the number of payments to be paid under the judgment. Judgments paid pursuant to this section shall bear interest as provided in K.S.A. 16-204, and amendments thereto. For good cause shown, the court may modify such judgment with respect to the amount of such payments and the number of payments to be made or the interval between payments, but the total amount of damages awarded by such judgment shall not be subject to modification in any event and periodic payments shall not be ordered paid over a period in excess of ten (10) years.

(b) A court may order periodic payments only if the court finds that:

(1) Payment of the judgment is not totally covered by insurance coverage obtained therefor; and

(2) funds for the current budget year and other funds of the municipality which lawfully may be utilized to pay judgments are insufficient to finance both the adopted budget of expenditures for the year and the payment of that portion of the judgment not covered by insurance obtained therefor.

New Sec. 19. Payment of any judgments, compromises or settlements for which a municipality is liable pursuant to this act may be made from any funds or moneys of the municipality which lawfully may be utilized for such purpose or if the municipality is authorized by law to levy taxes upon property such payment may be made from moneys received from the issuance of no-fund warrants or general obligation bonds. Such warrants may mature serially at such yearly dates as to be payable by not more than ten (10) tax levies. Bonds issued under the authority of this act shall be issued in accordance with the provisions of the general bond law and shall be in addition to and not subject to any bonded debt limitation prescribed by any other law of this state. Taxes levied for the payment of warrants or bonds shall be exempt from the limitations imposed under the provisions of K.S.A. 79-5001 to 79-5016, inclusive, and amendments thereto and shall not be subject to or limited by any other tax levy limitation prescribed by law.

New Sec. 20. To the extent that payment cannot be made from insurance coverage obtained therefor, and current funds of the state are available for such purpose, the state shall pay any compromise, settlement or final judgment arising from a claim against the state or employee thereof, as authorized by this act, from such funds. To the extent that payment cannot be made from such insurance coverage or from current funds of the state available for such purpose, the claimant shall submit a claim therefor to the chairpersons of the house and senate ways and means committees for inclusion in appropriation acts of the legislature.

Sec. 21. K.S.A. 12-105a is hereby amended to read as follows: 12-105a. As used in this act and the act of which this section is amendatory, the following words and phrases shall have the meanings respectively ascribed to them herein, unless the context shall otherwise require:

(a) "Municipality" means and includes county, township, city, school district of whatever name or nature, community junior college, municipal university, drainage district, cemetery district, fire district, and other political subdivision or taxing unit, and including their boards, bureaus, commissions, committees and other agencies, such as, but not limited to, library board, park board, recreation commission, hospital board of trustees having power to create indebtedness and make payment of the same independently of the parent unit.

(b) "Governing body" means and includes the board of county commissioners, the governing body of a city, the township board (trustee, clerk and treasurer), board of education or other governing body of a school district, board of trustees of a community junior college, board of regents of a municipal university, the body of a special district (such as a drainage, cemetery, fire or other) which has the power to create indebtedness and is charged with the duty of paying the same, and the board, bureau, commission, committee or other body of an independent agency of a parent unit.

(c) "Claim" means the document relating to and stating an amount owing to the claimant by a municipality for material or service furnished to the municipality, or some action taken by or for the municipality and for which the municipality may or may not be responsible in a liquidated or an unliquidated amount. A claim is liquidated when the amount due or to become due is made certain by agreement of the parties or is fixed by law. ~~The term "claim" does not include a statement of demand filed pursuant to K.S.A. 12-105.~~

(d) "Warrant" means an instrument ordering the treasurer of a municipality to pay out of a designated fund a specified sum to

a named person or party who or which has filed a claim against the municipality.

(e) "Check" means an ordinary check drawn on a depository bank of a municipality by the treasurer of such municipality and payable to the holder of a warrant or warrants issued by the municipality.

(f) "Warrant check" means a combination of warrant and check. It is a negotiable instrument which orders a depository bank to pay to the order of the payee therein named. A warrant check authorizes the bank upon which drawn to charge the municipality's account with the amount stated therein.

(g) For the purposes of this act the term "audit" shall be construed to mean to examine and render an opinion as to allowance or rejection in whole or in part.

Sec. 22. K.S.A. 12-105b is hereby amended to read as follows: 12-105b. All claims against a municipality must be presented in writing with a full account of the items, and no claim shall be allowed except in accordance with the provisions of this section. A claim may be the usual statement of account of the vendor or party rendering a service or other written statement showing the required information. Claims for salaries or wages of officers or employees need not be signed by the officer or employee, if a payroll claim is certified to by the administrative head of a department or group of officers or employees or an authorized representative that the salaries or wages stated therein were contracted or incurred for the local government under authority of law, that the amounts claimed are correct, due and unpaid and that the amounts are due as salaries and wages for services performed by the person named. No costs shall be recovered against a municipality in any action brought against it for any claims allowed in part, unless the recovery shall be for a greater sum than the amount allowed, with the interest due. ~~Provided, That no action shall be maintained against a city in exercising or failure to exercise any corporate power or authority in any case where such action would not lie~~

~~against a private individual under like circumstances.~~ Subject to the terms of applicable insurance contracts, judgments and settlements obtained for claims recoverable pursuant to the Kansas tort claims act shall be presented for payment in accordance with this section or in such manner as the governing body may designate.

Before any liquidated claim is presented to the governing body it shall be audited by the clerk, secretary, manager, superintendent, finance committee or finance department or other officer or officers charged by law to approve claims affecting his, her or its area of government, and thereby approved in whole or in part as correct, due and unpaid.

Sec. 23. K.S.A. 12-2904 is hereby amended to read as follows: 12-2904. (a) Any power or powers, privileges or authority exercised or capable of exercise by a public agency of this state relating to public improvements, public utilities, police protection, libraries, data processing services, educational services, building and related inspection services, flood control and storm water drainage, weather modification, sewage disposal, refuse disposal, park and recreational programs and facilities, ambulance service, ~~or~~ fire protection, the Kansas tort claims act or claims for civil rights violations, may be exercised and enjoyed jointly with any other public agency of this state or with any private agency, and jointly with any public agency of any other state or of the United States to the extent that the laws of such other state or of the United States permit such joint exercise or enjoyment. Any agency of the state government when acting jointly with any public or private agency may exercise and enjoy all of the powers, privileges and authority conferred by this act upon a public agency.

(b) Any public agency may enter into agreements with one or more public or private agencies for joint or cooperative action pursuant to the provisions of this act. Appropriate action by ordinance, resolution or otherwise pursuant to law of the governing bodies of the participating public agencies shall be

necessary before any such agreement may enter into force.

(c) Any such agreement shall specify the following: (1) Its duration.

(2) The precise organization, composition and nature of any separate legal or administrative entity created thereby together with the powers delegated thereto, provided such entity may be legally created.

(3) Its purpose or purposes.

(4) The manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget therefor.

(5) The permissible method or methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination.

(6) Any other necessary and proper matters.

(d) In the event that the agreement does not establish a separate legal entity to conduct the joint or cooperative undertaking, the agreement shall, in addition to items (1), (3), (4), (5) and (6) enumerated in subdivision (c) hereof, contain the following:

~~(1)~~ Provision for an administrator or a joint board or one of the participating public agencies to be responsible for administering the joint or cooperative undertaking. In the case of a joint board public agencies party to the agreement shall be represented.

~~(2)~~ The manner of acquiring, holding and disposing of real and personal property used in the joint or cooperative undertaking.

(e) No agreement made pursuant to this act shall relieve any public agency of any obligation or responsibility imposed upon it by law except that to the extent of actual and timely performance thereof by a joint board or other legal or administrative entity created by an agreement made hereunder, said performance may be offered in satisfaction of the obligation

or responsibility.

(f) Every agreement made hereunder shall, prior to and as a condition precedent to its entry into force, be submitted to the attorney general who shall determine whether the agreement is in proper form and compatible with the laws of this state. ~~Provided,~~ except that agreements between two or more public agencies establishing a council or other organization of local governments for the study of common problems of an area or region and for the promotion of intergovernmental cooperation need not be so submitted. The attorney general shall approve any agreement submitted hereunder unless the attorney general shall find that it does not meet the conditions set forth herein and shall detail in writing addressed to the governing bodies of the public and private agencies concerned the specific respects in which the proposed agreement fails to meet the requirements of law. Failure to disapprove an agreement submitted hereunder within ninety (90) days of its submission shall constitute approval thereof.

Sec. 24. K.S.A. 19-261 is hereby amended to read as follows: 19-261. The board of county commissioners of any county may provide as a county function or may contract with any city, person, firm, or corporation for the furnishing of ambulance services within all or any part of their respective counties upon such terms and conditions, and for such compensation as may be agreed upon which shall be payable from the county general fund. ~~Provided. The county shall not be liable in any respect for the operations of the ambulance services other than as set forth in K.S.A. 1967 Supp. 12-2608 and 12-2609. Provided, however, That.~~ No ambulance shall be operated pursuant to any contract unless its operation is covered by liability insurance of not less than twenty-five thousand dollars (\$25,000) because of bodily injury to, or death of, one person in any one accident and, subject to the said limit for one person, to a limit of not less than fifty thousand dollars (\$50,000) because of bodily injury to, or death of, two or more persons in any one accident, and, if the accident has resulted in injury to, or destruction of property to a limit

of not less than five thousand dollars (\$5,000) because of injury to, or destruction of, property of others in any one accident. The board of county commissioners shall not provide ambulance service under the provisions of this act in any part of the county which receives adequate ambulance service, but the county shall reimburse any taxing district which provides ambulance services to such district with its proportionate share of the county general fund budgeted for ambulance services within the county. Such reimbursement shall be based on the amount that assessed tangible taxable valuation of the taxing district bears to the total taxable tangible valuation of the county, but in no event shall such district receive from the county more than the district's cost of furnishing such ambulance services.

Sec. 25. K.S.A. 19-3621 is hereby amended to read as follows: 19-3621. The governing body of the fire district may enter into contracts with cities and other fire districts, townships, or duly organized and incorporated volunteer fire departments whether within or without the county or state, for co-operation between fire departments of the respective cities, districts and townships, and may include in such contracts provisions by which the fire department of such cities, townships or other districts or volunteer fire departments will furnish fire protection to a part of the fire district in question in consideration of cash payments or reciprocal services, and. The governing body of the fire district may also include in such contracts provisions to provide, furnish and pay for a bond in such amount as shall be agreed upon to indemnify any such city, fire district, or township against any loss which it may sustain as result of damage to property or injury to persons arising out of the furnishing of fire protection services to such districts. ~~Provided, That any such cities, townships, districts or volunteer fire departments shall not be liable in any way for failure of the district fire department to attend a fire, or to put out a fire, or for any other reason, but the district fire department, subject to the conditions of this act, shall make reasonable~~

~~effort (road and weather conditions permitting) to attend outside fires. Provided further, That.~~

The supervision and control of the fire district fire department shall always be with the governing body of the fire district. ~~And provided further, That.~~ The fire chief or person in charge of the fire department shall have the right in every case, where a contract exists for reciprocal service, to determine whether or not the district can spare all or any portion of its fire equipment and firemen at that particular time.

~~The township and district and the officers and firemen of the district, fire department of any city or other fire district townships or volunteer fire departments which have agreed to furnish fire protection to all or any part of said fire district, and the officers and firemen of such other cities, townships and fire districts shall have all the privileges, immunities and exemptions conferred upon cities and townships and their fire departments by section 12-111 of the General Statutes of 1949.~~

Sec. 26. K.S.A. 46-903 is hereby amended to read as follows: 46-903. No money or funds shall be disbursed from the state treasury or any special fund of the state of Kansas in part or full satisfaction or payment of any claim or judgment based in whole or in part on an implied contract, ~~negligence or any other tort unless:~~

~~(a) Such claim accrued on or after August 30, 1969, and before the effective date of this act, or~~

~~(b) such claim or judgment is based upon a specific statutory exception to the governmental immunity provided for in section 1 of this act, or~~

~~(c) the payment of such claim or judgment has been specifically authorized by act of the legislature, or~~

~~(d) such claim is based upon a judgment rendered prior to the effective date of this act.~~

Sec. 27. K.S.A. 72-8404 is hereby amended to read as follows: 72-8404. (a) The board of education of every school district or its contract carrier shall purchase motor vehicle

liability insurance and medical payments insurance for the protection and benefit of the school district and the officers, agents and employees for the school district and the students, officers, agents and employees thereof who are transported in or operate school buses owned, operated, maintained or controlled by the school district and of persons while riding in or upon, entering or alighting from such vehicles. The medical payments insurance so purchased shall provide coverage to a limit of not less than two thousand dollars (\$2,000) for any one person in any one accident. The motor vehicle liability insurance policy so purchased shall provide coverage to a limit, exclusive of interests and costs, of not less than fifty thousand dollars (\$50,000) because of bodily injury to or the death of one person in any one accident and subject ~~of~~ to said limit for one person, to a limit of not less than one hundred thousand dollars (\$100,000) because of bodily injury to, or death of two or more persons in any one accident, and if the accident has resulted in injury to, or destruction of property to a limit of not less than ten thousand dollars (\$10,000) because of injury to, or destruction of property of others in any one accident. ~~The school district shall not be liable in any respect because of providing or furnishing transportation other than as set forth in K.S.A. 1968-Supp. 12-2608, 12-2609, 12-2610 and 12-2612.~~

(b) Except as provided by subsection (c), insurance authorized to be obtained under authority of this act may be acquired by competitive bids or by negotiation in the discretion of the board of education. In the event competitive bids are taken, the board of education shall purchase insurance only after it has invited sealed proposals for such insurance by advertising once each week for two (2) consecutive weeks in a newspaper having general circulation in the school district. Such insurance shall be purchased from the lowest responsible bidder, but any or all bids may be rejected. ~~Provided,~~

(c) The board of education of any school district, in which all or the greater part of the population of a city having a

population of more than two hundred fifty thousand (250,000) is located, shall acquire insurance authorized to be obtained under authority of this act only by competitive bids and only after it has invited sealed proposals for such insurance by advertising once each week for two consecutive weeks in a newspaper having general circulation in the school district, ~~and~~. Such insurance shall be purchased from the lowest responsible bidder, but any or all bids may be rejected.

(d) The preceding provisions of this section shall not apply to transportation of students in privately owned motor vehicles with a capacity of less than eight (8) persons, and in lieu of the other provisions of this section the board of education of every school district shall provide by its rules and regulations for appropriate insurance coverages as a condition to payment of transportation allowance for transportation of students in such privately owned motor vehicle.

Sec. 28. K.S.A. 74-4702 is hereby amended to read as follows: 74-4702. ~~On and after May 1, 1963,~~ No state agency shall purchase or carry insurance on any property owned by said state agency or the state except as expressly and specifically authorized by ~~sections K.S.A. 74-4703 and 74-4705 of the General Statutes Supplement of 1964~~ and as required by ~~sections 2 to 7, both sections inclusive, of this act~~ K.S.A. 74-4707.

Sec. 29. K.S.A. 75-4109 is hereby amended to read as follows: 75-4109. The committee shall, not later than January 1, 1970, and at least every three (3) years thereafter, approve the property and casualty insurance coverages that shall be purchased by each state agency. (1) The committee shall require that each state agency purchase the insurance coverages prescribed by K.S.A. 74-4703 ~~and~~, 74-4705 ~~to 74-4713, inclusive~~ and 74-4707, and shall prescribe the terms, conditions and amounts of such coverage giving due regard to the operations and requirements of the agencies involved. (2) The committee shall, in addition to the coverages specified in (1) above, designate the insurance coverages to be purchased by each state agency that are deemed by

the committee to be necessary to protect the state for property of others that may be in the possession or control of such state agencies. Such coverages as are specified in (1) and (2) above may also include coverages on property of the state that are deemed by the committee to be incidental to the basic coverages herein required and the committee shall prescribe the terms, conditions and amounts of all insurance coverages purchased pursuant to this section. Property of the state board of regents of any university or college which is referred to in (1) of this section may be self-insured as provided under this act.

Sec. 30. K.S.A. 80-1423 is hereby amended to read as follows: 80-1423. The township board of any township may establish and operate as a township function an ambulance service within or without such township or may contract with any city, county, person, firm or corporation for the furnishing of ambulance services within all or any part of the township upon such terms and conditions, and for such compensation as may be agreed upon. ~~Provided, The township shall not be liable in any respect for the operations of the ambulance services other than as set forth in K.S.A. 12-2608 and 12-2609. Provided, however,~~ That, No ambulance shall be operated pursuant to any contract unless its operation is covered by liability insurance of not less than fifty thousand dollars (\$50,000) because of bodily injury to, or death of, one person in any one accident and, subject to the said limit for one person, to a limit of not less than one hundred thousand dollars (\$100,000) because of bodily injury to, or death of, two or more persons in any one accident, and, if the accident has resulted in injury to, or destruction of property to a limit of not less than twenty thousand dollars (\$20,000) because of injury to, or destruction of, property of others in any one accident.

Sec. 31. K.S.A. 80-1502 is hereby amended to read as follows: 80-1502. (a) The governing body of any municipality may contract with any county, township or individual or group of individuals, firm or corporation whose property is situated

outside the city limits, to furnish fire-fighting service to such county, township, individual, group of individuals, firm or corporation, upon such terms and for such compensation as may be agreed upon. ~~Provided, That the municipality shall not be liable in any way for failure of the fire department to attend a fire, or to put out a fire or for any other reason, but the department, subject to the conditions of this act, shall make a reasonable effort (road and weather conditions permitting) to attend outside fires.~~ ~~Provided,~~ The fire chief or person in charge of the fire department shall have the right in every case to determine whether or not the city can spare all or any portion of its fire equipment and firemen at that particular time. ~~Provided further, That,~~

(b) The compensation agreed upon in a contract pursuant to subsection (a) shall always be at least sufficient to pay the city for the reasonable use of equipment and for the cost of material used on the run and fighting the fire, to pay the firemen and to enable the city to carry a sufficient amount of insurance to indemnify it for loss or damage to any fire-fighting equipment, or injury or damage to person or property (if the city be actually liable therefor). ~~Provided further, That,~~ All such contracts shall be made by ordinance. The compensation agreed upon shall be a legal charge and collectible by the municipality rendering the service in any court of competent jurisdiction.

Sec. 32. K.S.A. 80-1923 is hereby amended to read as follows: 80-1923. (a) Any benefit district organized under the provisions of K.S.A. 80-1922 is hereby authorized to contract with the township board having control over any fire department created under the provisions of K.S.A. 80-1920 for the furnishing of fire-fighting service within said district by said township board, and such township board is hereby authorized to contract with the governing body of any such benefit district to furnish fire-fighting service to such district upon such terms and for such compensation as may be agreed upon. ~~Provided,~~ Such township board may also contract with any individual or group of

individuals, firm or corporation whose property is situated outside its township, to furnish fire-fighting services to such individual, group of individuals, firm or corporation upon such terms and for such compensation as may be agreed upon. ~~Provided further. The township furnishing such fire-fighting service shall not be liable in any way for failure of its fire department to attend a fire, or to put out a fire or for any other reason, but the fire department, subject to the conditions of this act, shall make a reasonable effort (road and weather conditions permitting) to attend outside fires. Provided further.~~ A person in charge of the fire department shall have the right in every case to determine whether or not all or any portion of the fire equipment and volunteer members can be spared at any particular time. ~~Provided further.~~

(b) The compensation agreed upon in a contract pursuant to subsection (a) shall always be at least sufficient to pay the township owning the equipment for the cost of material used on the run and fighting the fire and, if such township be actually liable therefor, to pay the firemen and to enable such township to carry a sufficient amount of insurance to indemnify it for loss or damage to any fire-fighting equipment, or injury or damage to person or property. ~~Provided further.~~ All such contracts shall be in writing and duly adopted by the township boards or township trustees concerned. The compensation agreed upon shall be a legal charge and collectible by the township rendering the service in any court of competent jurisdiction.

Sec. 33. K.S.A. 82a-934 is hereby amended to read as follows: 82a-934. ~~The provisions of K.S.A. 46-901 shall not apply to any agreement made under this section.~~ The Kansas water resources board, on behalf of the state, shall enter into negotiations and agreements with the federal government relative to the inclusion of, and the payment for, conservation storage features for water supply in any project that has been planned, authorized or constructed by the federal government when the board shall deem such negotiations and agreements to be necessary

for the achievement of the policies of the state of Kansas relative to the water resources thereof. ~~Provided, however,~~ Such agreements shall be binding upon the state to the extent that future appropriations are made in support thereof. Subject to the foregoing ~~proviso~~, any agreement made under this section may provide that a portion of the reimbursement cost shall include any payment made by the United States to third parties as a result of the finding of liability by a court of competent jurisdiction or by settlement arising out of the use of the water storage space and the release therefrom, except that no reimbursement shall be made to the extent that the liability arises from the sole fault of the United States.

Sec. 34. K.S.A. 12-105, 12-105a, 12-105b, 12-203, 12-204, 12-2601 to 12-2614, inclusive, 12-2904, 19-106, 19-261, 19-3621, 46-901, 46-903, 72-8404 to 72-8413, inclusive, 74-4702, 74-4708 to 74-4716, inclusive, 75-4109, 75-4356, 75-4357, 75-4357a, 75-4359, 75-4361, 80-1423, 80-1502, 80-1923 and 82a-934 and K.S.A. 1978 Supp. 46-902, 46-902a, 68-2108 and 75-4358 are hereby repealed.

Sec. 35. This act shall take effect and be in force from and after its publication in the statute book.